



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium Special Session

Bill #	SB0003	Title:	Education trust funded by real estate investment trust taxes
Primary Sponsor:	Elliott, J.	Status:	As Introduced

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|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

	<u>FY 2008</u> <u>Difference</u>	<u>FY 2009</u> <u>Difference</u>	<u>FY 2010</u> <u>Difference</u>	<u>FY 2011</u> <u>Difference</u>
Expenditures:				
General Fund	\$3,041,750	\$3,498,013	\$4,022,714	\$4,626,122
State Special	\$0	\$3,041,750	\$3,498,013	\$4,022,714
Revenue:				
General Fund	\$3,041,750	\$3,498,013	\$4,022,714	\$4,626,122
State Special	\$3,041,750	\$3,498,013	\$4,022,714	\$4,626,122
Net Impact-General Fund Balance	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal Impact: Proposed law requires a Real Estate Investment Trust (REIT) to pay tax of 6.75% on gain recognized through sale of tangible capital assets. Because the proposed tax is not the corporate license tax, the dividends paid deduction allowed under current law will not apply.

Under current law a REIT is not required to distribute net capital gains income to shareholders as dividends. However, a REIT typically distributes a large portion of net capital gains income to shareholders in order to avoid entity level income tax. Since under current law a REIT is allowed to deduct the distribution of capital gains dividends from gross income, this effectively excludes net capital gains from REIT corporate license tax liability.

Under proposed law the revenue generated from this new tax will be transferred from the general fund to a new education trust account. Up to \$15 million per annum is paid from the trust account to school districts in amounts based upon school unit payments. These appropriations will not impact local property taxes.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

1. Proposed law requires a Real Estate Investment Trust (REIT) to pay tax of 6.75% on gain recognized through sale of tangible capital assets.
2. Department of Revenue estimates that if proposed law were in place during tax year 2004 an additional \$2.0 million in income tax revenue would have been collected.
3. Fiscal note estimates REIT capital gain from sale of tangible assets to grow at 15% from tax year 2004 through tax year 2010. This high projected rate of growth reflects high levels of growth in recent years and is not likely to be sustained over the long term.
4. Under proposed law, the projected revenue to the new education trust account is \$3,041,750 in FY 2008 $\{ \$2,000,000 \times 1.15^3 \}$, \$3,498,013 in FY 2009 $\{ \$3,041,750 \times 1.15 \}$, \$4,022,714 in FY 2010 $\{ \$3,498,013 \times 1.15 \}$, and \$4,626,122 in FY 2011 $\{ \$4,022,714 \times 1.15 \}$.
5. The fiscal note assumes credit for contribution of real property by a REIT to the state equals zero in FY 2008 through FY 2011.
6. The fiscal note assumes that the credit for taxation of capital gains has no significant fiscal impact.
7. The fiscal note assumes interest earned on balances in the education trust account equals zero in FY 2008 through FY 2011.
8. The department will not require any additional resources to administer this change in law.
9. All revenues received from the provisions of SB 3 will be transferred from the state general fund to the education trust account in the state special revenue fund.

Office of Public Instruction

10. SB 3 provides an additional component to school districts in the district general fund budgets. The funding is based on available revenue in the education trust account in the state special revenue fund at the end of the prior fiscal year.
11. This funding will be distributed to school units, which are defined as 800 ANB for a high school district; 250 ANB for the K-6 ANB of an elementary district with an approved 7-8 grade program, junior high school or middle school; 250 ANB for the K-8 ANB of an elementary district without an approved 7-8 grade program, junior high school or middle school; and 450 ANB for the 7-8 grade ANB of an elementary district with an approved 7-8 grade program, junior high school or middle school. It is estimated that there will be 904 school units in FY 2009.
12. The total appropriation for the school unit payment is limited to a maximum of \$15 million appropriated in HB 2. In FY 2009 it is estimated that \$3 million will be available for distribution to schools. At \$3 million, the school unit payment is estimated to be approximately \$3,100 per school unit in FY 2009.
13. This new school funding component is funded 100% by the state and will not impact local property taxes.

<u>Fiscal Impact:</u>	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Expenditures:</u>				
Local Assistance	0	\$3,041,750	\$3,498,013	\$4,022,714
Transfer from General Fund	\$3,041,750	\$3,498,013	\$4,022,714	\$4,626,122
TOTAL Expenditures	\$3,041,750	\$3,498,013	\$4,022,714	\$4,626,122
<u>Funding of Expenditures:</u>				
General Fund (01)	\$3,041,750	\$3,498,013	\$4,022,714	\$4,626,122
State Special	0	\$3,041,750	\$3,498,013	\$4,022,714
TOTAL Funding of Exp.	\$3,041,750	\$6,539,763	\$7,520,727	\$8,648,836
<u>Revenues:</u>				
General Fund (01)	\$3,041,750	\$3,498,013	\$4,022,714	\$4,626,122
State Special	\$3,041,750	\$3,498,013	\$4,022,714	\$4,626,122
TOTAL Revenues	\$6,083,500	\$6,996,026	\$8,045,428	\$9,252,244
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special	\$3,041,750	\$456,263	\$524,701	\$603,408

Sponsor's Initials

Date

Budget Director's Initials

Date